

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mary Salig	Team: Team # 1	CCRB Case #: 200301790	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/08/2003 12:30 AM	Location of Incident: I/F/O § 87(2)(b)	Precinct: 77	18 Mo. SOL 9/8/2004	EO SOL 9/8/2004	
Date/Time CV Reported Mon, 03/10/2003 2:00 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 03/10/2003 2:00 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Joseph Matthew	02925	896138	077 PCT
2. POM Darryl Chen	29402	903608	077 PCT
3. POM Joseph Collora	31165	903648	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Joseph Matthew	Abuse: Sergeant Joseph Matthew authorized the stop and question of § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
B.POM Joseph Collora	Abuse: Officer Joseph Collora searched § 87(2)(b)	§ 87(2)(b)
C.POM Darryl Chen	Abuse: Officer Darryl Chen frisked and searched § 87(2)(b)	§ 87(2)(b)
D.POM Joseph Collora	Abuse: Officer Joseph Collora threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
E.POM Joseph Collora	Abuse: Officer Joseph Collora attempted to enter § 87(2)(b) using § 87(2)(b)'s keys.	§ 87(2)(b)
F.POM Joseph Collora	Abuse: Officer Joseph Collora threatened to arrest § 87(2)(b).	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Synopsis

§ 87(2)(b) filed his complaint as a walk-in to the CCRB on March 10, 2003. On March 8, 2003, § 87(2)(b) sat with a friend, § 87(2)(b) in front of § 87(2)(b) when three plainclothes officers exited an unmarked Crown Victoria and approached the two men (Allegation A). The officers identified as an anti-crime team from the 77th Precinct consisting of Sergeant Matthew, Officer Chen and Officer Collora, allegedly frisked and/or searched § 87(2)(b) and § 87(2)(b) (Allegations B and C). During the frisk, Officer Collora allegedly threatened to slap § 87(2)(b) (Allegation D). Officer Collora then removed two sets of keys from § 87(2)(b)'s pocket and attempted to enter § 87(2)(b) (Allegation E). § 87(2)(b) and § 87(2)(b) were accused of selling drugs and Officer Collora threatened § 87(2)(b) with arrest (Allegation F).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) filed his complaint as a walk-in on March 10, 2003. This is his sixth CCRB complaint. He is § 87(2)(b) and a § 87(2)(b) at § 87(2)(b) in Brooklyn.

On March 7, 2003 at 12:30 AM, § 87(2)(b) sat on the steps to § 87(2)(b) with his friend § 87(2)(b) when an unmarked Crown Victoria with three plainclothes officers drove the wrong way up the one way street and stopped in front of § 87(2)(b). Sergeant Matthew, Officer Chen and Officer Collora exited the vehicle and instructed a male and female who were out on the § 87(2)(b) floor fire escape of the building to go inside as “the fire escape is only for fires.” § 87(2)(b) recognized these officers as a team that stops and questions him and his friends on a regular basis.

The officers approached § 87(2)(b) and § 87(2)(b) and asked if they lived at this address and why they were waiting on the steps. § 87(2)(b) told Officer Chen that he, the officer, knew where the complainant lived. § 87(2)(b) told the officers that they had just been sitting and talking. The officers asked the men to stand up and proceeded to go into their pockets without first patting down the pockets or frisking them in any other manner. Officer Collora searched § 87(2)(b) as Officer Chen searched § 87(2)(b). Officer Collora took a set of keys out of § 87(2)(b)'s left pants pockets as well as his cell phone leaving a second set of keys inside the pocket. § 87(2)(b) had money in his right pant pocket that also was not removed. § 87(2)(b) did not know where the officer placed his cell phone when it was taken out of his pocket. He asked Officer Collora for his cell phone and the officer replied as though he was being accused of stealing the cell phone. The officer said he’d “slap § 87(2)(b) in the face”. The officer then indicated that the cell phone was in the front pocket of § 87(2)(b)'s hooded sweatshirt. § 87(2)(b) did not notice when the officer placed the cell phone in his pocket. Officer Chen and Officer Collora then went into the lobby of the apartment building that § 87(2)(b) had been sitting in front of. The officers looked into the garbage cans and around the mailboxes inside the vestibule area of the building. No contraband was found. Officer Collora first tried to use the first set of keys he had removed from § 87(2)(b) to open the door.

When the first set didn't work, the officer removed the second set of keys from § 87(2)(b)'s pocket and tried again. § 87(2)(b) explained that the second set of keys corresponded to the gym at § 87(2)(b), where § 87(2)(b) works. § 87(2)(b) stated that he does not sell drugs, works full time and showed the officers his § 87(2)(b). Officer Collora then told § 87(2)(b) that he had better get off the streets or the officers would arrest him. § 87(2)(b) walked across the street to § 87(2)(b), his home. The officers taunted him by using the name "§ 87(2)(b)" a nickname given to him by his friends.

Throughout this interview, § 87(2)(b) stated that the officers have been harassing him since 1995. They make sarcastic remarks to him, but he could not state what the remarks were either on this date or other dates. § 87(2)(b)

§ 87(2)(b), § 87(2)(f)

§ 87(2)(b) stated that the officers know him because he has lived on this block for § 87(2)(b), § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Results of Investigation

Attempted Witness Contacts

Letters were sent to § 87(2)(b) and § 87(2)(b) § 87(2)(b) which were returned marked as "undeliverable". These two witnesses were identified through § 87(2)(b)'s statement and the Stop, Question and Frisk reports prepared by the officers about this incident. Calls were made to telephone numbers found in BADS for § 87(2)(b) and § 87(2)(b) but no contact resulted. (Enclosures 21a-i, 22a-k, 23a-d, 24a-g, 26a-b) No other attempts to locate these witnesses were successful. § 87(2)(b) was contacted after his interview for assistance in locating the two witnesses. He stated that he is not very familiar with § 87(2)(b) or with § 87(2)(b) and could not provide contact information for either witness.

Officer Testimony

Subject officers were interviewed at the CCRB on April 3, 2003. They were all part of an anti-crime team working within the confines of the 77th Precinct. The team was in plainclothes with their shields around their neck and patrolling "hot spots" - drug and crime-ridden zones. Sergeant Matthew was the supervisor of the team. They were patrolling for crimes in progress in an unmarked blue Ford Crown Victoria. Officer Collora was the operator.

Sergeant Joseph Matthew

The anti-crime team drove onto § 87(2)(b) from § 87(2)(b) against traffic. As the car was approaching § 87(2)(b) the officers observed two men, identified as § 87(2)(b) and § 87(2)(b) sitting on the front porch of the building. There were several people scattered up and down the block. Sergeant Matthew made the decision to approach the men to investigate whether or not they lived in the building. § 87(2)(b) is well known in the neighborhood and Sgt. Matthew knows that § 87(2)(b) lives somewhere on this block. Sergeant Matthew is familiar with § 87(2)(b). Although the sergeant has never arrested § 87(2)(b) he understands that § 87(2)(b) has been the subject of several past drug arrests and investigations. The officers exited the vehicle, approached § 87(2)(b) and § 87(2)(b) and the sergeant asked § 87(2)(b) if he lived in that particular building. Just as Sergeant Matthew asked this question a male, subsequently identified by the UF-250 prepared by one of his officers as § 87(2)(b) walked directly up to § 87(2)(b) and asked him to "give [him] one" while holding a ten-dollar bill. This indicated to the officers that § 87(2)(b) was attempting to purchase narcotics from § 87(2)(b). The sergeant did not recognize § 87(2)(b) who was then questioned by Officer Collora. Sergeant Matthews asked § 87(2)(b) what had just happened after Officer Collora took § 87(2)(b) aside. § 87(2)(b) replied only that he was going home and, when he walked away, shouted that this was "his block" and he could sit wherever he wanted. Sergeant Matthew did not stop § 87(2)(b). Officer Chen and Officer Collora were nearby but in two different locations, one was to the sergeant's right, the other to his left. The only reason given by Sergeant Matthew for not pursuing § 87(2)(b) further was that he did not want to lose sight of his team.

While Sgt. Matthew was speaking with § 87(2)(b) Officer Chen spoke with two men standing in front of either § 87(2)(b). The team then entered the lobby area of § 87(2)(b). Sgt. Matthew explained that § 87(2)(b) and § 87(2)(b) had exited the building and Sergeant Matthew's intention when he entered the lobby was to verify that all the doors were secured. Earlier during his interview the sergeant had stated that § 87(2)(b) and § 87(2)(b) were first observed sitting on the stoop outside the apartment building. However, when asked to clarify, the sergeant stated that § 87(2)(b) had been seen exiting the building as the officers drove up to the scene. Sgt. Matthew stated that initially § 87(2)(b) was suspected of possibly being a burglar, despite the fact that he was not seen carrying anything such as burglars tools. Sgt. Matthew could not provide any further explanation of what his suspicion was based on. When they entered the lobby or vestibule of the building, the officers looked around the garbage cans and mailboxes to see if anything was hidden but found nothing. Sgt. Matthew could not describe exactly what the purpose of this search was.

Although Sergeant Matthew was familiar with § 87(2)(b) prior to March 8, 2003, he had never stopped or questioned him before. The sergeant denied seeing anyone on a fire escape or asking anyone on a fire escape to leave. § 87(2)(b) was not frisked or searched. No officer searched § 87(2)(b) and no officer was discourteous. No officer threatened § 87(2)(b) with the use of force or with arrest. Officer Chen never spoke to § 87(2)(b). Sergeant Matthew stated that Officer Chen filed two UF-250s for the men he spoke with but the sergeant did not instruct him to do so, nor did he instruct him to file one for § 87(2)(b). § 87(2)(b) was never frisked or searched. Nothing was recovered from § 87(2)(b) and at no time were § 87(2)(b)'s keys used to try to gain access to the building. (Enclosure 13a-e)

Officer Joseph Collora

On March 8, 2003, at approximately 12 AM, the officers parked in front of § 87(2)(b) after observing two men, § 87(2)(b) and § 87(2)(b) sitting on the stoop of the building, and several other people gathered around on the sidewalk. There was no apparent criminal activity but this block is a known narcotics location. Officer Collora stated that the officers stopped because they "...can tell who the users are... we know who the players are, who the dealers are," and these "players" were scattered along the block. The presence of the officers is usually enough to result in people dispersing. The officers had chosen to drive the wrong way up the one way street in order to catch people by surprise. They exited the vehicle and went in three different directions. Officer Collora stood in front of either § 87(2)(b) and spoke to two gentlemen; he did not document these stops. He returned to Sergeant Matthew, who was near § 87(2)(b). Sergeant Matthew explained to Officer Collora that an individual had approached § 87(2)(b) and attempted to purchase narcotics. Officer Collora then approached § 87(2)(b) and asked if he lived in the building. Officer Collora instructed § 87(2)(b) to disperse because he did not live in the building. § 87(2)(b) was neither frisked nor searched. The officers left after only a few minutes.

Officer Collora did not search or frisk § 87(2)(b) in any way. He didn't threaten him with force or arrest. Officer Chen did not interact with § 87(2)(b) and went in a direction opposite that of Officer Collora. Neither he nor any other officer "that [Officer Collora] saw" went into the lobby of § 87(2)(b). He did not see anyone exit the building "because [he] was talking to two gentlemen down the block, trying to figure out what was going on". Officer Collora, coincidentally, is also nicknamed § 87(2)(b) and never addressed § 87(2)(b) as such. He did not accuse him of being a drug dealer or say that he had "crack in his ass". Officer Collora did not fill out any UF-250s for the people he spoke to because he "didn't really talk to them about anything."

Officer Collora explained that the officers did not approach the men on the street to question them but rather to disperse the crowd. He stated that people in the precinct are familiar with him and the presence of his team effectively ends narcotic business for the evening. § 87(2)(b), § 87(2)(f)

Officer Collora has made several arrests in the area, which he described as one of the highest drug-prone locations in the precinct. (Enclosure 14a-f)

Officer Darryl Chen

Officer Chen stated that the officers' intention was to conduct a preliminary investigation to ensure that no crimes were being committed after noticing two males sitting in front of § 87(2)(b). The area is drug-prone and burglary-prone, therefore it is considered one of the precinct's "hot locations". The team parked in front of § 87(2)(b) and approached the two males, § 87(2)(b) and § 87(2)(b). Officer Chen did not notice additional individuals scattered on the street other than § 87(2)(b) and § 87(2)(b). Officer Chen spoke with § 87(2)(b) who was nervous. Officer Chen asked § 87(2)(b) if he lived in the building or if he was waiting for someone who lived in the building. § 87(2)(b) said he did not live in the building, but

said that was waiting for someone although he could not provide Officer Chen with the name or apartment number of the person to whom he was referring. Officer Chen asked § 87(2)(b) for his identification. Officer Chen went into the building's vestibule and looked behind the door and around the mailboxes. He didn't look in the garbage. Officer Chen stated that he was checking to see if anything was broken or forced into. There are a lot of burglaries at this time of night and they suspected that § 87(2)(b) was going to commit such a crime since he could not articulate who he was visiting, which is why Officer Chen inspected the lobby of § 87(2)(b).

Officer Chen was the only officer to go into the building. When Officer Chen walked out of the building he heard talking and saw the sergeant laughing. § 87(2)(b), § 87(2)(f)

Officer Chen took § 87(2)(b) information and let him leave. Sergeant Matthew was in front of § 87(2)(b) while Officer Collora was "somewhere in front of another building." The officers then left. Officer Chen did not speak to § 87(2)(b). He stated that if he had spoken to the complainant, frisked or searched him he would have filed a UF-250.

Officer Chen is familiar with § 87(2)(b) from the neighborhood. § 87(2)(b) Officer Chen previously worked a foot post in the precinct but did not stop § 87(2)(b) on a regular basis. § 87(2)(e), § 87(2)(f) Neither he nor any other officer spoke to or touched § 87(2)(b) during this incident.

When questioned about frisking and/or patting down § 87(2)(b) Officer Chen stated that the two are different. A pat down, as Officer Chen understands, is for the officers' protection only. A frisk is when an officer goes into a person's pockets. According to Officer Chen when a frisk is conducted, the person is already under arrest. He denied patting down or frisking § 87(2)(b) (Enclosure 15a-k)

Police Documents

The Stop, Question and Frisk Index for the 77th Precinct shows that PO Chen filed five UF-250s in mid-April for stops that occurred between March 8 and March 16. Among those reports are a UF-250 filed for § 87(2)(b) § 87(2)(b) regarding his stop on March 8, 2003, at § 87(2)(b) and one for § 87(2)(b) filed for his stop on the same date and at the same location (Enclosure 15d-i). The UF-250s filed by PO Chen were issued serial numbers § 87(2)(b). A series of nine UF-250s prepared by PO Collora for stops conducted between February 8 and March 16 were filed in mid-March and were issued serial numbers § 87(2)(b) (Enclosure 17g). This indicates that the officers prepare and gather several UF-250s before filing them. UF-250s are issued serial numbers at the time when they are filed, and not when they are prepared.

The two UF-250s dated March 8, 2003 documenting the stops of § 87(2)(b) § 87(2)(b) and § 87(2)(b) were obtained. Officer Chen provided the first copy of these two documents to the CCRB at the time of his interview on April 3, 2003. This first copy of the UF-250s for § 87(2)(b) § 87(2)(b) and § 87(2)(b) did not have serial numbers listed on them. § 87(2)(g)

However, the second copy of the two UF-250s prepared for § 87(2)(b) and § 87(2)(b) were obtained through a request to the 77th Precinct and were received in May of 2003. These second copies had serial number notations as well as notations Officer Chen marked on the reverse side of the reports.

§ 87(2)(g) However, the report filed for § 87(2)(b) indicates that no other persons were stopped. The time and location of the two stops are the same. § 87(2)(b) UF-250 indicates that he was suspected of possession of a controlled substance while § 87(2)(b) was suspected of burglary. According to the UF-250s, neither male was frisked or searched. No weapon or other contraband was found. Additional factors leading to the stops were noted as the high incidence of crime in the area and the time of day/day of the week. Other factors that led to the stop of § 87(2)(b) as noted on the UF-250, were his evasive responses to questions and his changing direction at the sight of officers. There is no indication on the UF-250 that § 87(2)(b) attempted to purchase narcotics. No UF-250 was filed for § 87(2)(b) or anyone else at the location (Enclosure 15 i-n).

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

CCRB History

§ 87(2)(b) has filed five previous CCRB cases. § 87(2)(g)

§ 87(2)(b)

Civil Litigation

§ 87(2)(b)

§ 87(2)(b) has not filed any claims regarding the events of March 8, 2003. (Enclosure 18a-c)

Officer History

Sergeant Joseph Matthew has been tenured with the New York City Police Department since July 7, 1989. He has eleven CCRB cases listed in his history. Officer Joseph Collora and Officer Darryl Chen have both been members of the NYPD since August 30, 1993. Officer Collora has had eight CCRB cases, and Officer Chen has four listed on his CCRB history. Officer Chen has no substantiated CCRB cases. An allegation against Sergeant Matthew was substantiated in CCRB case number 200301705 for a question and/or stop allegation; charges were recommended. Allegations against Officer Collora were substantiated in the same case for a frisk/search allegation, a threat of arrest allegation and a discourtesy allegation; charges were recommended for all allegations. § 87(4-b), § 87(2)(g)

Conclusions and Recommendations

There is no dispute that § 87(2)(b) and § 87(2)(b) were stopped in front of § 87(2)(b) Sergeant Matthew and his anti-crime team stopped the two men and questioned them, and stopped § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

Officer Chen stated that the officers approached the males to conduct a cursory investigation and ensure that “everything was okay” on the block. Officer Collora stated that they approached the group by driving against traffic with the purpose of surprising them with the intent to have the group disperse. He added that they stopped on this particular block because they “...know who the users are... know who the players are, who the dealers are.” Sergeant Matthew stated that he made the decision to approach the group to investigate whether or not they lived in the building, whether or not they knew anyone who lived there and to determine “what they were doing.” However, the sergeant also stated that he and the other officers are familiar with § 87(2)(b) and know that he lives somewhere on the block where they stopped him.

§ 87(2)(g)

PO Chen stated that § 87(2)(b) and § 87(2)(b) were sitting on a stoop outside § 87(2)(b) on a block he described as a drug and burglary-prone location. He made no mention of any other civilians causing any disturbance or engaging in any criminal activity. PO Collora stated that § 87(2)(b) and § 87(2)(b) were sitting on the stoop and that there were several other civilians standing around on the block. He made no observations of criminal activity. Finally, Sgt. Matthew § 87(2)(g) first stated that he initially observed § 87(2)(b) and § 87(2)(b) sitting on the stoop, and later stated that he first observed § 87(2)(b) exiting § 87(2)(b). Sgt. Matthew said that observing § 87(2)(b) leaving § 87(2)(b) led him to suspect that § 87(2)(b) had been engaged in activity related to burglary. Sgt. Matthew also stated that there were civilians standing up and down the block, though he did not indicate that they were in any way related to § 87(2)(b) and § 87(2)(b).

§ 87(2)(g)

None of the officers provided any statement regarding the observation of criminal activity by § 87(2)(b) or § 87(2)(b). PO Collora stated that his and his fellow officers’ intention was to have § 87(2)(b) and § 87(2)(b) disperse. PO Chen said that § 87(2)(b) is a “hot location” so the officers intended to find out whether § 87(2)(b) and § 87(2)(b) lived there. Sgt. Matthew at first stated that he intended to find out whether § 87(2)(b) and § 87(2)(b) resided in the building, but later stated his intention was to question § 87(2)(b) as he suspected him of engaging in burglary-related activity. § 87(2)(g), § 87(2)(b)

§ 87(2)(g), § 87(2)(b) . § 87(2)(b) states that he and § 87(2)(b) were simply sitting on a stoop on their block when they were approached. § 87(2)(g) § 87(2)(b) stated that he and § 87(2)(b) were initially asked what they were doing and whether they resided in the building. § 87(2)(b) reminded the officers that they knew where he lived, a detail that is acknowledged by some of the officers. § 87(2)(b) then alleges that Officer Collora immediately began to search him while Officer Chen searched § 87(2)(b) § 87(2)(g)

§ 87(2)(g) Officer Collora said that he did not enter the building, Sgt. Matthew said that all three officers entered the building and Officer Chen claimed that he was the only officer to enter the vestibule of the building. § 87(2)(b), § 87(2)(g) He alleges that Officer Collora tried to open the front door of the building using both sets of keys he found while searching § 87(2)(b). Both Sgt. Matthew and Officer Chen claim that they entered the vestibule of the building with the intention of investigating their suspicion that § 87(2)(b) may have been involved in a burglary. However, they deny that they ever saw § 87(2)(b) engaged in burglar-like behavior such as carrying tools that could be used to gain entry into a building. They also deny frisking or searching him and they deny ever receiving external information regarding § 87(2)(b)’s involvement in a possible burglary.

§ 87(2)(g), § 87(2)(b)

§ 87(2)(b) walked into the CCRB and filed his complaint promptly after this incident occurred. § 87(2)(g)

§ 87(2)(g), § 87(2)(b) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] § 87(2)(b), § 87(2)(g) § 87(2)(b), § 87(2)(g)

Allegation A: Sergeant Joseph Matthew authorized the stop and question of § 87(2)(b) and

§ 87(2)(b) § 87(2)(g), § 87(2)(b)

According to the Street Encounters – Legal Issues Memo Book Insert, PD 344-153, in order to conduct a stop of this level, an officer must have a reasonable suspicion that the person “...is committing, has committed or is about to commit a felony or Penal Law misdemeanor.” When this level of suspicion exists, an officer may ask the individual for his name and address, an explanation of his conduct and detain him “...while an expeditious investigation is conducted to determine if there is probable cause to arrest the subject.”

§ 87(2)(g), § 87(2)(b)

In *New York Search and Seizure* Barry Kamins writes that reasonable suspicion must be based on clear and articulable facts, and not on “hunches and gut feelings.” (Enclosure 1e) He notes that the Court of Appeals defines reasonable suspicion as that “quantum of knowledge sufficient to induce an ordinarily prudent and cautious man under the circumstances to believe criminal activity is at hand.” (Enclosure 1e)

§ 87(2)(g), § 87(2)(b)

§ 87(2)(g), § 87(2)(b)

§ 87(2) § 87(2)(b), § 87(2)(g)

Allegation B: Officer Joseph Collora frisked and searched § 87(2)(b)

Allegation C: Officer Darryl Chen frisked and/or searched § 87(2)(b)

§ 87(2)(b) alleges that immediately upon being stopped, Officer Collora searched him by placing his hands into § 87(2)(b)'s pockets. The officers all deny that this occurred. No witnesses came forward to confirm or deny that this happened and neither § 87(2)(b) nor § 87(2)(b) was located.

The officers all denied allegations that they frisked and searched § 87(2)(b) and § 87(2)(b). However, § 87(2)(b) was able to describe how and where he, and his companion, was searched.

§ 87(2)(g)

At issue in PD v. Hoffman, OATH index number 1005-06/98, is when an officer is permitted to stop and frisk a pedestrian based on a hunch that criminality is afoot. There, the court held that a "hunch" that someone might be up to "no good" was an insufficient basis to conduct anything more than a stop and inquiry. (Enclosure 3f) Similarly, PD v. Walsh, OATH index numbers 75254/99 and 75557/00, discusses the "reasonableness standard", which allows an officer to tailor his/her approach to an encounter with a civilian based on information gathered. In that case, the court held that "the greater the specific and articulable indications of criminal activity, the greater may be the officer's intrusion upon the citizen's liberty." (Enclosure 4b) Kamins notes that an officer is permitted to stop and frisk an individual when he or she "reasonably" suspects a threat of physical injury. (Enclosure 1s) However, an officer is not permitted to stop an individual otherwise engaged in innocuous behavior or to stop and question an individual when the officer bases that stop on the fact that the individual is in a high crime area. Kamins goes further to state that even if an officer arrested this individual before, and the officer now sees this person in a high crime area, the officer still does not have reasonable suspicion to stop this individual.

From § 87(2)(b)'s account of the incident, the officers immediately searched him and § 87(2)(b) after asking whether or not he lived in § 87(2)(b). The officers all state that no one was frisked or searched. The two UF-250s prepared concerning this incident document that neither § 87(2)(b) nor § 87(2)(b) was searched. However, neither UF-250 was filed at the precinct until more than a month after the initial stop and approximately eleven days to two weeks after the officers' interviews at the CCRB. Sergeant Matthew claimed that § 87(2)(b) approached § 87(2)(b) in order to purchase narcotics, which is also reflected on the UF-250. § 87(2)(b), § 87(2)(g)

according to § 87(2)(b) no one approached him to buy narcotics. § 87(2)(b), § 87(2)(g)

Allegation D: Officer Joseph Collora threatened § 87(2)(b) with the use of force.

Allegation D addresses the claim that Officer Collora threatened to slap § 87(2)(b). Officers are not permitted to threaten to slap civilians and are not permitted to speak in a rude or discourteous manner save for certain instances such as to enforce a lawful order or in response to a civilian's own discourtesies,

§ 87(2)(g), § 87(2)(b)

Allegation E: Officer Joseph Collora attempted to enter § 87(2)(b) using § 87(2)(b)'s keys.

§ 87(2)(b) alleged that Officer Collora removed a set of keys from his pocket, entered the vestibule of § 87(2)(b) and attempted to use them to gain entry into the building. When none of the keys worked in the lock, the officer retrieved a second set of keys from the pocket of § 87(2)(b)'s pants and was again unsuccessful. Officer Collora denied retrieving the keys and stated that he never entered the building's vestibule. In contrast, Sgt. Matthew stated that he along with Officer Collora and Chen all entered the building to check for signs of a forced entry. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

New York Search and Seizure Law discusses a standard of reasonableness "by which police conduct is measured under the Fourth Amendment." The standard instructs those analyzing the actions taken to "assess what the officer knew and measure that knowledge against the action he took; if the action is not justified by the action he took, it is not reasonable." § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation F: Officer Joseph Collora threatened to arrest § 87(2)(b)

Allegation F involves Officer Collora threatening § 87(2)(b) with arrest if § 87(2)(b) did not "get off the street." According to Penal Law §240.20, Disorderly Conduct, civilians may be arrested for not complying with a lawful order to disperse when congregating in a public place with intent to cause public annoyance or alarm. § 87(2)(g), § 87(2)(b)

PD v. Grossman, OATH index number 2382/00, states that an officer is not permitted to issue a threat of arrest without a legitimate "basis to do so." § 87(2)(b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b)

stated that he was instructed to "get off the streets" or that he would

be arrested by Officer Collora after the officer exited the lobby and just before § 87(2)(b) left the scene. Officer Collora, who denied issuing any threats, stated that he may have instructed § 87(2)(b) to disperse.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) never acknowledged that § 87(2)(b) who was only identified by the UF-250, approached the group. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: